

# **INDIANA BOARD OF PHARMACY**

**Indiana Professional Licensing Agency**  
Indiana Government Center South, Room W064  
402 W. Washington St.  
Indianapolis, IN 46204

## **MINUTES OF the February 8, 2010 Board Meeting**

### **I. CALL TO ORDER & ESTABLISHMENT OF QUORUM**

President and Presiding Officer Lora Williams called the meeting to order at 10:10 a.m. in Room W064 of the Indiana Government Center-South, 402 West Washington Street, Indianapolis, Indiana 46204, and declared a quorum with all seven members present, in accordance with IC § 25-26-13-3.

#### **Board Members Present:**

Lora N. R. Williams, JD, President (*Consumer Member*)  
William J. Cover, R.Ph., Vice President  
Steven Anderson, R.Ph., Member  
Del T. Fanning, R.Ph., Member  
Winnie Landis, R.Ph., Member  
Sara St. Angelo, PharmD., R.Ph., Member  
Donna S. Wall, PharmD., R.Ph., Member

#### **Board Members not in attendance:**

None

#### **State Officials Present:**

Phil Wickizer, Board Director, Indiana Professional Licensing Agency  
Kyle McClurg, Litigation Specialist, Indiana Professional Licensing Agency  
Wanda Levendoski, Compliance Officer, Indiana Professional Licensing Agency  
Eric Percy, Compliance Officer, Indiana Professional Licensing Agency  
Zaneta Nunnally, Compliance Officer, Indiana Professional Licensing Agency  
Tim Thomas, Compliance Officer, Indiana Professional Licensing Agency  
Gordon White, Board Advisory Counsel, Office of the Attorney General

### **II. PLEDGE OF ALLEGIANCE**

Member Williams led the Board in the Pledge of Allegiance.

### **III. ADOPTION OF THE AGENDA**

A motion was made by Member St. Angelo and seconded by Member Landis to adopt the agenda.

**MOTION CARRIED: 7-0-0.**

### **III. ADOPTION OF MINUTES FROM PREVIOUS MEETING**

A motion was made by Member Fanning and seconded by Member Cover to adopt the January 11, 2010 minutes as presented.

**MOTION CARRIED: 7-0-0.**

#### **IV. PROBATIONARY APPEARANCES**

Probationary appearances were conducted by the Compliance Officers in the Conference Center of Indiana Government Center South starting at 1PM and a report was made following the conclusion of the Administrative Hearings.

- A motion was made by Member Wall and seconded by Member Fanning to approve the following probationary appearances:

Goodge, Thomas  
Kaczynski, Scott  
Querry, Kevin  
Reynolds, Susan  
Phillips, Samantha

**MOTION CARRIED: 6-0-0 (Member Landis left the meeting at 4PM - prior to this vote).**

- A motion was made by Member Cover and seconded by Member St. Angelo to approve the following probationary appearances:

Dodds, Gregory  
Harter, Larry  
Mittelkamp, Elaine  
Six, Jamie

**MOTION CARRIED: 6-0-0 (Member Landis left the meeting at 4PM - prior to this vote).**

- A motion was made by Member Cover and seconded by Member St. Angelo to approve the following probationary appearances:

Hine, Edward  
Lanting, Emily Beth  
Scott, Michael  
Young, Samuel

**MOTION CARRIED: 6-0-0 (Member Landis left the meeting at 4PM - prior to this vote).**

- A motion was made by Member Wall and seconded by Member St. Angelo to approve the following probationary appearances:

Lawson, Mark  
Lyons (Holling), Traci  
Price, Judy  
Zehring, Steven

**MOTION CARRIED: 6-0-0 (Member Landis left the meeting at 4PM - prior to this vote).**

- A motion was made by Member Fanning and seconded by Member Cover to approve the following probationary appearances:

Brown, Shelley  
Fisher, Patricia  
Flick, Julie  
King, Tina

Lowe, Keri  
Seebach, Lon  
Stroud, Chad

**MOTION CARRIED: 6-0-0 (Member Landis left the meeting at 4PM - prior to this vote).**

- The following individuals did not show for their probationary appearances but will be instead making their appearance next month:

Wheeler, Adam

## **V. PERSONAL APPEARANCES**

### **A. Compliance Officer Reports**

- Report from Compliance Officer Eric Percy:

Compliance Officer Percy reported that he had a routine month. He, along with Compliance Officers Nunnally and Thomas, and Director Wickizer, visited with the Marsh Pharmacy team to work on matters related to their regulatory compliance program and to show them our new system. Mr. Percy also filed two complaints last month.

- Report from Compliance Officer Tim Thomas:

Compliance Officer Thomas reported that he had a normal month. He scheduled and performed several new HME inspections; at least four last month. Mr. Thomas also filed three consumer complaints. Of interest currently, he is dealing with a Shelbyville independent pharmacy that is having patients who are encountering issues with mail order drugs from outside the country.

- Report from Compliance Officer Wanda Levendoski:

Compliance Officer Levendoski worked on a couple of pharmacy closings this last month. She, like the others also had quite a few HME inspections, five total HMEs so far for last month. She is also currently working with the DEA and other local law enforcement on a couple of investigations. Ms. Levendoski, on behalf of the Board, is also looking at two remote locations that have applied for approval from the Board.

- Report from Compliance Officer Zaneta Nunnally:

Compliance Officer Nunnally had a relatively routine January. She offered a ride along experience to some Purdue students. She is also in the process of helping Walgreens straighten out some of their CSR issues. As far as violations go, for the last month they typical violations found during inspections continue to be expired meds and compounding. Ms. Nunnally also filed two consumer complaints.

### **B. Heather Bellis – Pharmacy Technician Application (tabled 7-0-0)**

Ms. Bellis is appearing before the Board because of a positive response on her pharmacy technician Application. In her application she disclosed that she had an OWI in both 2003 and 2008. Ms. Bellis is currently complete and up-to-date with all the requirements of her criminal probation. Both of the OWI charges resulted in convictions (as opposed to involvement in a diversion program). Ms. Bellis admitted that she had some past alcohol issues. However, she also disclosed that she has not been arrested for anything else. She went through counseling as part of her probation and does not drink now. She still goes to one AA meeting a week. Ms. Bellis state that the last time she had a drink was the end of December 2008. She also currently has a job lined up at Walmart and was transferred into the pharmacy department from the grocery department.

A motion was made by Board Member Wall and seconded by Board Member Landis to table the application until such time as Ms. Bellis can provide the Board copies of her probation paperwork.

**Motion Carried 7-0-0**

**C. Vishal Kukreja – Repeat NAPLEX (approved 7-0-0)**

Mr. Kukreja petitioned the Board to be allowed to sit for the NAPLEX for a third time after two subsequent unsuccessful attempts to pass the test. The Board wanted to ensure that he was properly studying and understanding the materials. He explained to the Board that he is doing more studying to get himself ready and to correct the areas where he has not done well in the past. A motion was made by Board member Landis and seconded by Board Member Anderson to allow Mr. Kukreja to sit for the NAPLEX for a third time.

**Motion Carried 7-0-0.**

## **VI. MISCELLANEOUS**

**A. Board Director's Report**

Director Wickizer reported that this will be the last month that Board Litigation Specialist, Kyle McClurg, will be with the Board. He recently accepted a new position with the Indiana Optometric Association and will be starting in two weeks. We have been informed that we will be allowed to post and fill his position. We hope to have news of that posting in the next several weeks.

**B. Pending Legislation**

1. SB 285: Sale and Tracking of Ephedrine
2. SB 356: Professional Licensing
3. HB 1226: Health and Medicaid Fraud Matters
4. HB 1240: Various Insurance Matters
5. HB 1277: Health Disparities in Medicaid
6. HB 1320: Medication Changes

Board Director Wickizer reviewed several pending pieces of legislation that have been filed with the General Assembly that pertain to pharmacy and that have made it into the second house in the midway point of session. The issues being looked at continue to include the following:

- Combating Meth Abuse – several bills (all of which have been essentially combined into SB 285) have been introduced that would track and limit the sale of PSE products; the primary precursors for production of methamphetamine. Several of the solutions included a restriction in sale and some form of electronic reporting or tracking. The agencies involved and the fiscal associated with the project continue to be potential problems.
- Professional Practice/OAG Bill – the Attorney General's office is pushing legislation that would attempt to assist Boards and the OAG in prosecuting the unlicensed practice of a particular profession. It does not extend criminal authority to the Boards, but would allow them the power to go after individuals that are not licensed and pursue action in courts of general jurisdiction. (Deputy Attorney General Terry Richmond presented the Office of the Attorney General's position on this matter at the January meeting.) This bill is also tied up with Record keeping requirements and includes language that would require pharmacy employees to check patient IDs prior to dispensing. (HB 1226)
- Professional Licensing/INSPECT Bill (SB 356) – the Agency in general is working with several legislators to pass a bill that, specific to the Board of Pharmacy, would eliminate CSAC and streamline efforts and policy making decisions with respect to CSR. The bill would also give authority over INSPECT to the Board from CSAC and allow INSPECT to

collect additional data and be used by a wider range of individuals and government entities (most notable among the, the Medicaid program).

- Dispensing Bills and General Pharmacy Issues – there are also several bills that make changes to the communications that pharmacists are required to make between doctors and patients when dispensing drugs. They would make rules for dealing/dispensing with generics, language issues on labels, and labels for the visually impaired. (HB 1240, HB 1277, and HB 1320.)

**C. Blue Card Posting Requirement**

The Board asked to move discussion of this item to a later meeting.

**D. Rule 32: Transfer of Prescriptions Between Pharmacies**

The Board asked to move discussion of this item to a later meeting.

**E. Office of the Attorney General: Summer Training Session**

The Office of the Attorney General has offered to the Board a training opportunity to review administrative law standards and procedures. This will assist the Board in conducting hearings, understanding investigations, and allow them to be more thoughtful participants in the discipline process. The training will be conducted at some point in the summer. The Board will also provide insight into particular issues regarding the practice of pharmacy and which complaints should receive attention and priority from a safety standpoint.

**F. MPJE Item-Writing Workshop April 8-9, 2010**

The Board has the opportunity to send one delegate to the NABP workshop on writing MPJE items. NABP will pay all costs and expenses. The session will focus on development and writing questions to later be used on the MPJE. NABP is seeking participants from each state.

**G. Unwanted Medicines: Sharps Compliance Solution**

The Board asked to move discussion of this item to a later meeting.

**H. Requirements for Pharmacy Technician Employee File**

The Board asked to move discussion of this item to a later meeting.

## **VII. OLD/NEW BUSINESS**

**A. Review and Vote on Filed Motion**

Re: In the Matter of the License of Susan Reynolds, R.Ph.: Petition to Modify Findings of Fact, Conclusions of law, and Order of August 27, 2009 Consistent with the Evidentiary of June 8, 2009.

- The Board discussed the matter and reviewed the Petition prepared by Ms. Reynolds attorney as well as the memorandum prepared by the Attorney General's Office. The Board, noting that the time allowed challenging the original Order has lapsed, and noting that the Board did not feel that the original Order was in error, the members voted to deny the Petition to Modify. The motion to deny was made by Board Member Wall and seconded by Board Member St. Angelo. Motion Carried 7-0-0.

A second motion was made by Board Member Wall and seconded by Board Member St. Angelo to issue an Order to Show Cause due to Ms. Reynolds continued non-compliance with several conditions of her probation – most notably, the requirement to maintain an active PRN contract. Motion Carried 7-0-0.

## VIII. ADMINISTRATIVE HEARINGS

<b>A. In the Matter of the Indiana Pharmacy Permit of Hook SuperRx, LLC d/b/a CVS Pharmacy #2484</b>	
<b>Permit No.</b>	60005312A
<b>Administrative Cause No.</b>	2009 IBP 0050
<b>Regarding</b>	Final Hearing
<b>Parties Present</b>	Respondent did not appear in person.
<b>Counsel Present</b>	Respondent was represented by Counsel out of Chicago, but Counsel did not enter an appearance with the Board. Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	The State and Respondent entered into a Settlement Agreement purporting to resolve all the standing issues between the parties. The Agreement between the parties requires CVS to fulfill the obligations of the larger Settlement Agreement it entered into with the Medicaid Fraud Unit of the Attorney General's Office. This case involved the pharmacy that employed Edward Certain, who was allowed to practice without a license for a period of several years.
<b>Board Action</b>	A motion was made by Member Wall and seconded by Member St. Angelo to accept the Settlement Agreement.
<b>Vote</b>	Motion Carried <b><u>6-0-1</u></b> (Member Fanning abstained from voting on this matter).

  

<b>B. In the Matter of the Indiana Pharmacist License of Freeborn M. Esigbone, R.Ph.</b>	
<b>License No.</b>	26016811A
<b>Administrative Cause No.</b>	2001 IBP 0008
<b>Regarding</b>	Petition to Reinstate
<b>Parties Present</b>	Freeborn M. Esigbone
<b>Counsel Present</b>	Petitioner was not represented by counsel at the Hearing Mark Mader, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	Carol Dunham, PRN
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Mr. Esigbone is here on his own motion to have his pharmacist license reinstated. He was here this last summer and we asked him to participate in the PRN program successfully for 6 months prior to reappearing before

	the Board to request reinstatement. We also asked him to do continuing education to bring his license education up to date should we allow him to renew. The State noted that he has the burden to show that he is safe to practice and that he has done everything he needs to. He provided evidence that he has completed drugs screens and visited with Dr. Hinchman. However, the Board noted that he hasn't necessarily completed what the Board would view as the full six months of PRN based on when he started doing his drug screenings. The Board also noted that he is currently suspended and expired since 2002 with respect to his Indiana license. In order to successfully reapply, he would have to apply/renew, take the Naplex and MPJE. Following successful completion of those tasks the Board would be able to properly consider reinstatement. Mr. Esigbone would have to pay all the relevant fees, etc. The State advised that he should table this motion and get all the details worked out between now and the April meeting. The Board made a note that during his closing statement, Mr. Esigbone has admitted that he does not think he is capable of passing the MPJE and NAPLEX at this time. He self admitted that he is not familiar with the modern practice of pharmacy. Before leaving, Mr. Esigbone was giving the Director's card to assist him with completing the steps to applying.
<b>Board Action</b>	A motion was made by Member Cover and seconded by Member Anderson to deny the petition for reinstatement. A second motion was made by Member Fanning and seconded by member Wall to allow him to sit for the exams once he submits his renewal application.
<b>Vote</b>	Both Motions Carried <b><u>7-0-0</u></b>

### C. In the Matter of the Indiana Pharmacist License of James Miloshoff, R.Ph.

<b>License No.</b>	26023455A
<b>Administrative Cause No.</b>	2009 IBP 0044
<b>Regarding</b>	Petition to Reinstate
<b>Parties Present</b>	James Miloshoff
<b>Counsel Present</b>	Petitioner was not represented by Counsel Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	Carol Dunham, PRN
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Mr. Miloshoff is here on his own petition to reinstate his pharmacist license. He was before the Board twice earlier in 2009. He is attempting to transfer his license from the State of Arizona and he has completed his Arizona suspension discipline here per the Board's allowance. He is back before the Board now following our directions to complete his discipline, etc. He does currently have a job offer and has completed the terms of his order, done all his drug screens, and has done everything the Board has asked him to do. Carol Dunham, from PRN, stood as witness for Miloshoff and attested to his successful participation in the PRN program. Also, his potential job would not put him in a position where he is dealing with controlled substances. The State would request probation if we decide to take him off suspension.
<b>Board Action</b>	A motion was made by Member St. Angelo and seconded by Member Anderson to reinstate Petitioner's pharmacist license and place him on indefinite probation.
<b>Vote</b>	Motion Carried <b><u>7-0-0</u></b>

**D. In the Matter of the Indiana Pharmacy Technician Certification of Samuel Young, C.Ph.T.**

<b>Certification No.</b>	67005887A
<b>Administrative Cause No.</b>	2008 IBP 0058
<b>Regarding</b>	Petition to Withdraw Probation
<b>Parties Present</b>	Samuel Young
<b>Counsel Present</b>	Petitioner was not represented by counsel Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Petitioner was missing documentation to evidence completion of all the terms and conditions of his probation on his pharmacy technician certification. The Board and State recommended tabling this hearing until such time as the petitioner can provide the Board with the appropriate and complete documentation.
<b>Board Action</b>	A motion was made by Member Williams and seconded by Member St. Angelo to table this hearing until such time as Petitioner can provide additional documentation.
<b>Vote</b>	Motion Carried <b><u>7-0-0</u></b>

**E. In the Matter of the Indiana Pharmacy Technician Certification of Misty K. Engle, C.Ph.T.**

<b>Certification No.</b>	67002312A
<b>Administrative Cause No.</b>	2010 IBP 0002
<b>Regarding</b>	Petition for Summary Suspension
<b>Parties Present</b>	Respondent Failed to Appear
<b>Counsel Present</b>	Respondent was not represented by Counsel Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Respondent</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Respondent did not appear for her hearing. The State feels that Respondent is an immediate danger to the public health and safety and asks for an emergency suspension. She was involved with the Rising Sun pharmacy case where a substantial amount of diversion occurred from the pharmacy. She was charged with conspiracy and dealing in controlled substances. The State presented evidence of the diversion and conspiracy schemes.
<b>Board Action</b>	A motion was made by Member St. Angelo and seconded by Member Fanning to issue an Emergency Suspension on Respondent's certification.
<b>Vote</b>	Motion Carried <b><u>7-0-0</u></b>



**F. In the Matter of the Indiana Pharmacy Technician Certification of Judy Price, C.Ph.T.**

<b>Certification No.</b>	67015599A
<b>Administrative Cause No.</b>	2009 IBP 0021
<b>Regarding</b>	Order to Show Cause
<b>Parties Present</b>	Respondent, Judy Price, failed to appear as initially scheduled but did appear later in the afternoon during her probationary appearance and was asked to then attend to her hearing on the Order to Show Cause.
<b>Counsel Present</b>	Respondent was not represented by counsel Mark Mader, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Respondent</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Respondent initially did not show up for the morning hearing because of a scheduling misunderstanding on her part. However, she did appear for her probationary appearance and was then brought before the full Board. She is here for failing to appear before the Board for probationary appearances as required by her Final Order. She missed the October, December, and January probationary appearances. She testified that she has lots of family medical issues which caused her absences and that she had neglected to communicate these absences properly to the Board.
<b>Board Action</b>	An original motion for a NPD was made by Member Fanning and seconded by Member St. Angelo. The State also requested an emergency suspension for 90 days, and a motion was made by Member Fanning and seconded by Member Cover to issue the Suspension. Both of these motions were withdrawn later in the afternoon by a motion made by Member Wall and seconded by Member Cover. A final motion was made to continue the probation order as stands by Member Wall and seconded by Member Fanning.
<b>Vote</b>	All Motions Carried <b>7-0-0</b>

**G. In the Matter of the Indiana Pharmacist License of Edward Sauer, R.Ph.**

<b>License No.</b>	26010687A
<b>Administrative Cause No.</b>	2009 IBP 0028
<b>Regarding</b>	Petition to Reinstate
<b>Parties Present</b>	Edward Sauer
<b>Counsel Present</b>	Jimmy McDole, Counsel for the Petitioner Mark Mader, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Petitioner and the State entered into a Settlement Agreement which reinstates petitioner's license on probation. The State believes the Agreement protects the interests of the public and encourages the Board

	to accept it.
<b>Board Action</b>	A motion was made by Member St. Angelo and seconded by Member Anderson to accept the Settlement Agreement and reinstate the Petitioner's pharmacist license on probation.
<b>Vote</b>	Motion Carried <b>7-0-0</b>

#### **H. In the Matter of the Indiana Pharmacist License of Julie Flick, R.Ph.**

<b>License No.</b>	26016926A
<b>Administrative Cause No.</b>	2008 IBP 0017
<b>Regarding</b>	Petition to Modify Probation
<b>Parties Present</b>	Julie Flick
<b>Counsel Present</b>	Petitioner was not represented by counsel Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	Carol Dunham, PRN
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Petitioner is seeking to have her pharmacist license probation modified. Specifically, she is seeking to be allowed to work 7 days on and 7 days off over a two week period which exceeds the amounts she is allowed to work under her original probation order. She has letters of recommendation from the MRO and others that attest to her ability to do this work and to maintain her recovery. Her employer is aware of her past discipline and issues. Under her original order she is not allowed to make this petition for one more month, but she believes that the circumstances created by this new job warrant consideration of this petition (that is insurance coverage and full time work).
<b>Board Action</b>	A motion was made by Member Landis and seconded by Member Wall to modify the probationary terms on Petitioner's Pharmacist License to allow her to work 7 days on and 7 days off.
<b>Vote</b>	Motion Carried <b>5-1-1</b> (Board Member St. Angelo recused herself from participation in this Hearing.)

#### **I. In the Matter of the Indiana Pharmacist License of Katherine (Wisniewski) Walters, R.Ph.**

<b>License No.</b>	26016812A
<b>Administrative Cause No.</b>	1996 IBP 0004
<b>Regarding</b>	Petition to Reinstate
<b>Parties Present</b>	Katherine Walters
<b>Counsel Present</b>	Michelle Baldwin, Counsel for Petitioner Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Petitioner</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Petitioner initially surrendered her license in the 90s following issues with

	drug diversion, substance abuse, and mental problems. She has since undergone treatment for her problems, including treatment with a psychiatrist. Prior to surrendering her license she was suspended in 1996 and has not practiced pharmacy since that date. She works primarily in information technology now, but would like to get back into pharmacy. To that end, in the last year, she has completed the relevant CE requirements, taken the NAPLEX and MPJE, and submitted a new application for licensure. The State waived its closing but noted that you can reinstate a surrendered license. Respondent asked the Board for a probationary license. The Board granted Respondent's request and required probation of three years, personal and professional reports where appropriate, and a PRN contract if the MRO determines that she is an appropriate candidate for involvement with PRN.
<b>Board Action</b>	A motion was made by Member Wall and seconded by Member St. Angelo to grant reinstatement and issue the Petitioner a license on probation with the above stated terms and conditions.
<b>Vote</b>	Motion Carried <b><u>7-0-0</u></b>

<b>K. In the Matter of the Indiana Pharmacy Technician-in-Training Permit of Amy L. Fowlkes, P.T.I.T.</b>	
<b>Permit No.</b>	99038903A
<b>Administrative Cause No.</b>	2010 IBP 0003
<b>Regarding</b>	Petition for Summary Suspension
<b>Parties Present</b>	Respondent Failed to Appear
<b>Counsel Present</b>	Respondent was not represented by counsel Morgan Burton, Deputy Attorney General for the State of Indiana
<b>Participating Board Members</b>	Lora N. R. Williams, JD, President ( <i>Consumer Member</i> ) William J. Cover, R.Ph., Vice President Steven Anderson, R.Ph., Member Del T. Fanning, R.Ph., Member Winnie Landis, R.Ph., Member Sara St. Angelo, PharmD., R.Ph., Member Donna S. Wall, PharmD., R.Ph., Member
<b>Witnesses for the Respondent</b>	None
<b>Witnesses for the State</b>	None
<b>Case Summary</b>	Respondent was caught diverting controlled substances by a patient (who happened to be an off duty law enforcement officer) from her employer while filling patient prescriptions. The State feels she is an immediate threat and danger to public health.
<b>Board Action</b>	A motion was made by Member Fanning and seconded by Member Anderson to issue on emergency suspension on Respondent's Pharmacy Technician Certification for an initial period of 90 days.
<b>Vote</b>	Motion Carried <b><u>7-0-0</u></b>

## **IX. FINAL NOTES PRIOR TO ADJOURNMENT**

- Requirement for Closing the Pharmacy During Lunch Hours**

The Board Staff has received several calls regarding when a pharmacy is required to close and what work may be conducted when a pharmacist is or is not on duty in the licensed area. The Board notes that part of this discussion hinges on whether or not the entire facility is licensed or just portions of the facility is licensed. As a general matter, when a pharmacist is not on duty and not present in the licensed area, the pharmacy is required to close. That means no one may enter the pharmacy and work may not be conducted in the pharmacy. That means that technicians cannot answer phones or conduct work. The following instances do not require the pharmacy to close:

- The pharmacist going to the bathroom
- The pharmacist eating his lunch in the back area or attached break room (if he remains accessible to patients and staff, and that area is part of the licensed premises)
- The pharmacist assisting patients in the OTC areas of the store

The Board understands and notes that there will be distinctions between larger box stores with pharmacies and smaller stores where the pharmacy predominates. In those instances, employers should use reasonable judgment to determine whether or not the pharmacist is still within the licensed area, and is accessible to staff and patients.

The Board notes that the requirement for closing hinges on the accessibility of the pharmacist to patients and other members of the pharmacy staff. Even if the pharmacist is in the licensed area, if he is not accessible or willing to conduct work, then the pharmacy by the Board's interpretation of the statutory requirements is closed.

## **X. APPLICATIONS**

### **A. Nonresident Pharmacy Applications**

#### **i. Essential Pharmacy Compounding – Positive Response on Application**

A motion was made by Member Wall and seconded by Member St. Angelo to approve the application pending the amendment of their application to answer "yes" to the fact that they had a positive response and to explain their weekend hours.

**Motion Carried 7-0-0.**

### **B. Pharmacy Technician Applications**

#### **i. Cynthia Castillo – Request for Permit Extension**

A motion was made by Member St. Angelo and seconded by Member Fanning to require the applicant to make a Personal Appearance. **Motion Carried 7-0-0.**

### **C. Continuing Education Applications**

The following Continuing Education Applications were approved for official credit. A motion was made by Member Landis and seconded by Member Fanning to approve the following applications:

- i. Elayne Ansara for .5 credit hours
- ii. Belinda Crain for 14 credit hours
- iii. Timothy Johnston for .5 credit hours
- iv. R. Brian Wolfe for 1 credit hours
- v. Smriti Chawla for .5 credit hours

**Motion Carried 7-0-0.**

### **D. Electronic Data Intermediary Applications**

#### **i. Vision, by HealthMEDX**

A motion was made by Member Cover and seconded by Member Anderson to approve the application. **Motion Carried 7-0-0.**

**(\*\*BOARD MEMBER LANDIS LEFT THE MEETING AT APPROXIMATELY 4 P.M.)**

## **XI. ADJOURNMENT**

President Williams adjourned the meeting at approximately 5:00 p.m.

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**Lora N. R. Williams, J.D., President**  
**Indiana Board of Pharmacy**

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**Date**

### **Next Scheduled Meeting:**

Monday, March 8, 2010  
Indiana Government Center South  
Room W064 of the Indiana Professional Licensing Agency